Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
2000 Biennial Regulatory Review -- Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2	)	CC Docket No. 00-199
	)	
Jurisdictional Separations Reform and Referral To the Federal-State Joint Board	)	CC Docket No. 80-286
	)	
Local Competition and Broadband Reporting	)	CC Docket No. 99-301

COMMENTS OF SPRINT CORPORATION

Sprint Corporation, on behalf of its local, long distance and wireless divisions, respectfully submits its comments on Issue A[1] of the Further Notice of Proposed Rulemaking (FNPRM) released on November 5, 2001 in the above-captioned proceeding (FCC 01-305).

I. INTRODUCTION.

The Commission released the instant FNPRM in conjunction with the Report and Order in CC Docket Nos. 00-199, 97-212 and 80-286 (Accounting Order). In the Accounting Order, the Commission significantly reformed its accounting and reporting rules. Once the Accounting Order becomes fully effective[2] the result will be a sweeping overhaul of the ILECs' regulatory reporting obligations and, significantly, of the data

[1] Comments on Issue B dealing strictly with conforming amendments to the Part 36 separations rules were due on March 8, 2002. Sprint did not file Comments on Issue B.
[2] The Accounting Order will become effective six months after publication in the Federal Register (which occurred February 6, 2002) and approval by the OMB. However, carriers were allowed to implement Part 32 accounting changes as of January 1, 2002.

available to the Commission, State Commissions, and the industry demonstrating the results of ILECs operations.

Among other reforms, the Commission reduced the number of Class A accounts by forty-five percent and Class B accounts by twenty-seven percent and eliminated the cost allocation manual (CAM) filing requirement and biennial attestation requirement for mid-sized ILECs. Largely at the request of state regulators, the Commission added retail and wholesale revenue accounts to record revenues garnered from the sale of UNEs and other Section 251(c) services to CLECs.[3] The Commission also eliminated the requirement that mid-sized ILECs file ARMIS 43-02, 43-03 and 43-04 Reports. Several affiliate transaction rule changes were also adopted, *including* eliminating the requirement of a fair market value comparison for asset transfers that total less than $500,000 and providing carriers the flexibility to use the higher or lower of cost or market valuation as a ceiling or floor in valuing transactions with affiliates. These examples provide just a glimpse of the significant changes the Commission adopted.

In the instant FNPRM, the Commission proposes to refresh the record, in light of the actions taken in the Accounting Order, in order to determine whether further reforms should be adopted now. In particular, the Commission seeks comments on:

- the appropriate circumstances for elimination of accounting and reporting requirements for ILECs, including whether some or all requirements should be eliminated by a date certain, and

[3] On March 8, 2002 BellSouth Corporation, Verizon Communications, Inc., and SBC Communications, Inc. filed a joint Petition for Reconsideration of, among other items, this particular aspect of the Accounting Order.

- whether certain ARMIS information would more appropriately be collected through other means such as ad hoc data requests or the Commission's Local Competition and Broadband Data Gathering Program.

As explained below, further reforms should not be adopted at this time.

II. Further Reforms are neither desirable nor warranted at this time.

Sprint applauds the actions taken by the Commission in the Accounting Order. Sprint believes the record developed in this proceeding justifies the Commission's actions, including in particular, the relief granted to the mid-sized ILECs. As the Courts, Congress, and the Commission have recognized many times, there are significant differences between the mid-sized ILECs and the RBOCs – differences that justify imposing more stringent requirements on the RBOCs.[4]

However, further reform, at this time, is not desirable. With the significant changes adopted, the industry and State Commissions, particularly those that rely on federal accounting and reporting requirements for state purposes, need time to sort out all the changes and to assess the efficacy of those changes. Have the changes produced the desired result of eliminating obsolete and burdensome requirements? Or, have the changes left gaps in the regulatory process? Is the information needed to assess whether the ILECs, and in particular the RBOCs, are meeting their statutory obligations, especially their Section 251, and for the RBOCs their Section 251, 271 and 272 obligations, still available? Will the "reduction" in regulatory burdens create other types

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[4] The MFJ applied only to the RBOCs (GTE, which is now a part of Verizon, was subject to a similar GTE-only Consent Decree) and Sections 271 and 272 and their implementing regulations apply only to the RBOCs. The Commission has adopted several Orders that regulate the independent ILEC less stringently than the RBOCs. *See e.g.,* In the Matter of Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area, CC Docket No. 96-149, Second Report and Order, FCC 97-142, released April 18, 1997.

of burdens on the industry? For instance, are system changes -- by the ILECs, the State Commissions, and/or the carriers that rely on the ILECs for access and UNEs -- necessary to fully effectuate the changes already adopted? Sprint strongly believes that the Commission should wait until one of the subsequent biennial reviews before undertaking further changes. Such a brief respite will allow a reasonable "burn-in" period during which these questions may be answered and the industry and regulators may absorb and analyze the results of the changes already adopted.

Additionally, the significant changes brought about by the Accounting Order must be layered on top of a telecommunications industry that is in a heightened state of flux. Competition is developing far too slowly and is more imperiled at present than at any time since the passage of the Telecommunications Act of 1996. Technological changes, that are occurring ever more rapidly, bring the promise not only of new and innovative services, but also of operating efficiencies and perhaps, increased competition. The general state of the economy, and particularly the economy for the telecommunications industry (with numerous lay-offs and bankruptcies), further contributes to the state of flux. Thus, in addition to needing time to fully understand the results of the reforms adopted to date, some time is needed for the industry to stabilize and for competition to regain its health and become more robust. Only then, can the Commission make a well reasoned determination as to whether further reform of the accounting and reporting rules is necessary or justified.

Moreover, in Sprint's view further reform of the accounting and reporting requirements is not warranted at this time. The Commission's rationale for further reform is that developing competition and convergence in the telecommunications industry renders the original justifications for the requirements obsolete.

> As competition continues to develop, the original justifications for our accounting and reporting requirements may no longer be valid. Even apart from the changing nature of the marketplace, there is a substantial question whether some of the rules we retain today impose burdens unnecessarily. And as formerly distinct sectors of the communications industry continue to converge, there is reason to reexamine the justifications for imposing detailed accounting and reporting requirements on only one class of competitors [ILECs].[5]

Sprint strongly disagrees. The key point here is that competition is nascent at best and faltering at present. To the extent competition is developing, it is developing very slowly and only in fits and starts. Indeed, by any reasonable measure the ILECs are still dominant in their traditional local exchange and exchange access markets. According to the Commission's just released Local Telephone Competition Status Report, CLECs served a mere 5.5% of the total residential and small-business switched access lines as of June 30, 2001 (five and one half years after passage of the Telecommunications Act of 1996.)[6] When larger businesses are factored in, the CLECs fare better -- serving 9% of the total end-user switched access lines as of June 30, 2001.[7] However, after five and a half years 9% is hardly a testament to robust competition or a lack of ILEC dominance. Of that 9% only one-third represent lines owned by the CLEC.[8] Thus, even where the CLECs have been successful in obtaining end-user customers, they are still largely reliant on the ILECs for essential inputs.[9]

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[5] FNPRM at para. 206.

[6] Local Telephone Competition: Status as of June 30, 2001, Industry Analysis Division, Common Carrier Bureau, February 2002, Table 2 (total ILEC and CLEC residential & small businesses switched access lines divided by CLEC residential & small businesses switched access lines.)

[7] *Id.,* Table 1.

[8] *Id.,* page 1.

[9] If the Commission needs additional input on CLECs' dependence upon the ILECs for essential inputs, Sprint respectfully invites the Commission's attention to Sprint's Comments filed April 5, 2002 in the UNE Triennial Review docket, CC Docket No. 01-338.

Likewise, robust competition has not truly developed in the access market. As Sprint stated in the Commission's Special Access Performance Measurement docket "Sprint Long Distance …, continues to rely upon the ILECs for approximately 93% of its total special access needs despite aggressive attempts to self-supply and to switch to CLEC-provided facilities wherever feasible."[10] In that same docket, AT&T stated that it is still largely reliant on the ILECs for its special access needs:

> In SBC's territory and throughout the nation, AT&T and other competitors remain heavily dependent upon the ILECs for both interoffice transport facilities and local loops. Today, for the "backbone" portion of AT&T's local network, AT&T almost never self-provides DS1 transport and self-provides DS3 transport only a small minority of the time. Likewise, for the local loops used to provide connectivity between the customer's premise and the local service office, AT&T provides only a tiny fraction of its DS1s entirely on its own network. The remaining service is provided almost exclusively by utilizing the facilities of the ILECs.[11]

Given the lack of robust competition and continued ILEC dominance in the local exchange and exchange access markets, developing competition cannot, as yet, have rendered the justification for the remaining reporting and accounting requirements obsolete. Nor can developing competition in such a nascent stage serve as the rationale

[10] *See, e.g.* Comments of Sprint Corporation filed January 22, 2002 in CC Docket No. 01-321 at p. 4.

[11] See, e.g. Comments of AT&T Corp. filed January 22, 2002 in CC Docket No. 01-337 at p. 28. AT&T's comments also point to the recent ruling of the New York Public Service Commission (NYPSC) in *Proceeding on Motion of the Commission to Investigate Methods to Improve and Maintain High Quality Special Services Performance by Verizon New York, Inc., Opinion and Order Modifying Special Services Guidelines for Verizon New York Inc., conforming Tariff, and Requiring Additional Performance Reporting*, NY PSC Case 00-C-2051, at 6 (June 15, 2001) in which the NYPSC ruled that Verizon is still the dominant provider of special access services in all of NY - including Manhattan, the area generally regarded as the most competitive in the U.S.

for wholesale elimination of the remaining requirements or adoption of firm sunset dates for the requirements.[12]

In short, as a general matter, Sprint does not believe further reform is desirable or warranted at this time.[13] Below, Sprint sets forth several specific concerns with the Commission's proposals.

III. Elimination of Class A accounts and ARMIS filing requirements relied on by State Commissions may actually increase the regulatory burden on ILECs.

The Commission notes (para. 207) that elimination of Class A accounts and ARMIS filings may cause severe problems for state regulators that rely on that information. The Commission suggests a three year transition period during which the state regulators will undertake responsibility for collecting the information themselves. However, such action could also cause severe problems for ILECs that operate in multiple states. Today, those ILECs have one set of reporting requirements and have the systems and people in place to comply with those requirements. If the states adopt reporting regimes, the likelihood is that the ILECs, instead of complying with one set of requirements, will have numerous, divergent requirements to follow, necessitating the creation of new systems and implementation of new training programs. Such additional

[12] This is particularly true for the RBOCs which, given their increasing entry into the long distance market, have more incentive than ever before to misallocate costs.

[13] This is not to the say that the Commission should not continue to correct problems with the existing rules, such as duplicative reporting requirements. For example, upon further study of the Accounting Order, Sprint has identified a duplicative reporting obligation that was created between the showing of Business and Residence Access Lines on ARMIS 43-08, Statistical Data and Lines 2090, 2100, 2110, 2120, 2140, and 2150 of ARMIS 43-01, Annual Summary Report.

regulatory burdens are antithetical to the Commission's stated purpose of providing regulatory relief. The Commission should not put into place any firm sunset or elimination date for the federal accounting and reporting requirements relied upon by the states, until it is clear that the state response will not increase the ILECs' burden.

IV. If reaching a degree of competition is a trigger for further elimination of accounting and reporting requirements, it should be applied on a statewide basis.

The Commission inquires (paragraph 210) whether certain indices could be adopted, such as attainment of a competitive marketplace, that would serve as triggers for further reduction of accounting and reporting requirements. The problem here is, if applied on a small geographic market basis or an ILEC by ILEC basis, it could further burden the state regulators that rely on the federal requirements and further increase the burden for certain ILECs as well.

In many states the ILECs serve both urban and rural areas. To date, what little competition that has developed, has done so more quickly in the urban areas. The result could be an ILEC that follows the federal requirements for one part of their territory, but follows the state requirements for another (an increased regulatory burden). Even if the trigger applied on an ILEC by ILEC basis, the state regulators would be faced with the increased burden of continuing to rely on federal requirements for some of the ILECs in their state, but of developing and enforcing their own requirements for other ILECs.

Accordingly, Sprint does not endorse any further modifications or reforms at this time. However, if the Commission does adopt competition as a trigger for further reform, it should do so on a statewide basis. Once the trigger is attained by any ILEC in any part of a state, the elimination of the federal accounting and reporting requirements should apply across the board for all ILECs in that state.

V. Proposed reporting changes will not eliminate any existing regulatory burdens, and may create new burdens.

The Commission expresses concern that further elimination of its reporting requirements may jeopardize the attainment of certain statutory goals, such as preservation and advancement of universal service and ensuring that pole attachment rates are just and reasonable (paragraph 210). The Commission asks whether relying on specific, ad hoc data requests could take the place of existing reporting obligations.

Utilizing ad hoc data requests will not relieve any regulatory burdens. Because ILECs will not know in advance what information the ad hoc data requests may seek, the ILECs will need to keep existing reporting infrastructure in place. Additionally, as pointed out above, if the federal reporting requirements are eliminated, the states will need to adopt their own requirements -- and are likely to do so through various and divergent means. The end result could be an increased burden through keeping all existing infrastructures in place, while building additional reporting infrastructure to meet the new requirements imposed by the states. Such result will clearly not achieve the results the Commission seeks.

The Commission proposes that infrastructure information be collected through the Local Competition and Broadband Data Gathering Program instead of ARMIS 43-07. The Commission seeks comment on whether such a change, if implemented, should only apply to the mandatory price cap ILECs (para. 211). Clearly, any obligation to file the infrastructure information in the Local Competition and Broadband Data Gathering Program must be limited to the mandatory price cap ILECs. Today, the voluntary price cap ILECs are not required to file ARMIS 43-07 and report the infrastructure information. Imposing a new obligation on them to report this information, through any vehicle, would substantially increase those ILECs' regulatory burden.

VI. Affiliate transaction rules must be kept in place for Section 272 transactions.

As noted above, there should be no further reforms or elimination of accounting or reporting requirements, including the affiliate transaction rules at this time. This is especially true for the RBOCs as they gain Section 271 authorization. The RBOCs are, and increasingly will be, competing against IXCs at the same time as they are providing a key input -- access services, in particular special access service -- which those same IXCs rely upon to provide long distance services. The affiliate transaction rules provide valuable tools to ensure that the RBOC provide this key input to its separate long distance affiliate and other IXCs on a non-discriminatory basis. For example, the Cost Allocation Manual and attestation audit required by the affiliate transaction rules can provide meaningful information to determine RBOC compliance with its nondiscrimination obligation.

Additionally, while the risks of cost misallocation in the special access arena are ameliorated for price cap RBOCs that have gained pricing flexibility, and have thus waived low-end formula adjustments, they are not eliminated. The

RBOCs retain the incentive and ability to misallocate costs (*e.g.,* between regulated and nonregulated inputs and between jurisdictionalized inputs). Indeed, RBOC incentives to misallocate are greater when the RBOC is providing key wholesale components to other carriers and competing with those same carriers in the long distance market and local markets.

Additionally, many state regulators rely upon the federal affiliate transaction rules to monitor RBOC behavior. Not all States provide price flexibility similar to that provided by the federal price cap rules. As noted above, the RBOC's incentives to misallocate cost are very real and are increasing. While the states can adopt their own rules and reporting requirements, that can cause increased burdens on regulators and carriers alike, thwarting the Commission's desire to reduce regulatory burdens and imperiling the over-riding goal of facilitating competition in all sectors of the telecommunications market.

VII. Conclusion.

Further reform of the remaining accounting and reporting requirements, through either modification or elimination of existing requirements, is neither desirable nor warranted at this point and time. Following the sweeping reforms the Commission just adopted in the Accounting Order, there must be some period of time to assess the efficacy of the reforms. Further, unless the Commission knows how the state regulators will replace any rules eliminated by the Commission, there is a risk that regulatory burdens will actually be increased. Finally, competition in the ILECs' core markets -- local exchange and exchange access services -- remains nascent and, in all candor, is greatly at risk. The ILECs are still dominant in these markets, and the RBOC incentives for cost misallocation are increasing as the RBOCs enter the long distance market. Such circumstances do not support elimination of the remaining accounting and reporting requirements.

Respectfully submitted,

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